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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Placer)

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIEL ANTHONY SANCHEZ-ESPINOZA,

Defendant and Appellant.

C086570

(Super. Ct. No. 62146541)

Appointed counsel for defendant Daniel Anthony Sanchez-Espinoza asks this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Our review of the record has disclosed two clerical errors in the trial court's oral pronouncement regarding certain fees imposed pursuant to the Placer County Code, as well as several clerical errors on the abstracts of judgment. We will correct the clerical errors in the pronouncement of judgment and will direct the trial court to correct the abstracts of judgment in accordance with this opinion.

Finding no other arguable error that would result in a disposition more favorable to defendant, we otherwise affirm the judgment.

I

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

Defendant and the victim lived together, along with their four-year old daughter and the victim's two other children. The night of the crime, the family had attended a quinceañera, where the victim allegedly drank in excess, danced provocatively, and engaged in other disruptive and embarrassing behavior. A friend drove defendant, the victim, and their daughter home. Defendant later returned to the party alone and told his mother to go home to take care of his daughter and check on the victim, whom he had hurt. When defendant's mother arrived, she discovered the victim, unresponsive on the floor in a pool of blood. She called 911, and the victim, who had been shot in the head, was pronounced dead at the scene.

Later, as authorities searched for defendant, cell phone data suggested he was near a local cemetery. Authorities responded and contacted defendant, who was still armed with a handgun. They instructed defendant to put the gun down. Defendant initially appeared to be complying, but then shot at police. A firefight ensued, although no one was injured. Defendant eventually was taken into custody without further incident.

Shortly before trial was to begin, the parties reached a conditional plea bargain; defendant pleaded no contest to second degree murder (Pen. Code, § 187, subd. (a); count one)¹ with a firearm enhancement (§ 12022.53, subd. (d)) and three counts of assault with a semiautomatic firearm on a police officer (§ 245, subd. (d)(2); counts three, five, & seven), each with their own associated firearm enhancements (§ 12022.53, subd. (c)), in

¹ Undesignated statutory references are to the Penal Code.

exchange for dismissal of the remaining counts and sentencing exposure of 15 years to life to 87 years to life. The People agreed to withdraw the criminal protective order for defendant's daughter, and defendant further agreed to waive his appellate rights.

Following an extensive discussion of the implications of this deal, the court accepted defendant's change of plea. Defendant's later request to withdraw that plea was denied.

At the subsequent sentencing hearing, the court sentenced defendant to 15 years to life for count one with a consecutive term of 25 years to life for the firearm enhancement. As to the determinate terms, the court imposed the upper term of nine years on count three with a consecutive 20 years for the associated firearm enhancement. The court then imposed concurrent terms of nine years for both counts five and seven, plus 20 years for each associated firearm enhancement. Thus, the court sentenced defendant to an aggregate determinate term of 29 years plus a total indeterminate term of 40 years to life.

The trial court granted defendant 579 days of presentence custody credit and imposed the following fines and fees: \$350 presentence investigation fee (Placer County Code, § 2.96.030), four court security fees of \$40 (§ 1465.8), four criminal conviction assessments of \$30 (Gov. Code, § 70373), a booking fee of \$459 (Gov. Code, § 29550; Placer County Code, § 2.116.85), an incarceration fee of \$105 (Placer County Code, § 2.124.50), a restitution fine of \$10,000 (§ 1202.4, subd. (b)), and imposed, but suspended a corresponding parole revocation restitution fine of \$10,000 (§ 1202.45). The court also ordered \$2,839.85 in restitution for funds already paid to the victim's family by the California Victim Compensation Board.

Defendant timely appealed, and his request for a certificate of probable cause was denied.

II

Counsel filed an opening brief that sets forth the relevant procedural history and facts of the case and requested this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende, supra*, 25 Cal.3d 436.)

Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief, but has not done so.

Having undertaken an examination of the entire record pursuant to *Wende*, we note two clerical errors in the trial court's pronouncement of judgment pertaining to fees authorized by the Placer County Code. The trial court imposed a \$459 fee according to Government Code section 29550 and Placer County Code section 2.116.85. Section 2.116.85 does not exist, but section 2.116.085 exists and listed a fee of \$459 in 2016. (Former Placer County Code, § 2.116.085.) Thus, it appears the trial court misspoke in omitting the zero following the decimal. Similarly, the trial court imposed a \$105 incarceration fee pursuant to Placer County Code section 2.124.50. The code does not contain the referenced section, but section 2.124.050 did, in 2016, list an incarceration fee in the amount of \$105. (Former Placer County Code, § 2.124.050, subd. (18).) We will correct these obvious clerical errors to identify the correct provisions of the Placer County Code. (*People v. Mitchell* (2001) 26 Cal.4th 181, 185; *People v. Shirley* (1970) 10 Cal.App.3d 268, 275 [correcting pronouncement of judgment reciting the wrong subdivision].)

We further note that the trial court failed to check number seven on the abstract of judgment for the indeterminate term (Judicial Council Forms, form CR-292), which identifies that there was an additional determinate term imposed. This document also misidentified the restitution ordered as going to the victim, not the victim restitution fund. The amended abstract of judgment for the determinate term (Judicial Council Forms, form CR-290) similarly fails to check number seven, identifying that there was an additional indeterminate term. We will direct the trial court to correct these clerical errors. (*People v. Mitchell, supra*, 26 Cal.4th at p. 185 [appellate court may order correction of clerical errors reflected in abstract of judgment].)

We find no other arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

We correct the trial court's oral pronouncement of judgment to reflect that the trial court imposed a \$459 fee according to Government Code section 29550 and Placer County Code section 2.116.085 and a \$105 incarceration fee pursuant to Placer County Code section 2.124.050. The court is directed to correct the clerical errors on the abstracts of judgment identified herein and to forward certified copies of these amended documents to the Department of Corrections and Rehabilitation. The judgment is otherwise affirmed.

RAYE, P. J.

We concur:

ROBIE, J.

RENNER, J.